

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

ERIC CHARLES SMITH

Criminal No. 14-216

INDICTMENT MEMORANDUM

AND NOW comes the United States of America, by its attorneys, David J. Hickton, United States Attorney for the Western District of Pennsylvania, and James T. Kitchen, Assistant United States Attorney for said District, and submits this Indictment Memorandum to the Court:

I. THE INDICTMENT

A Federal Grand Jury returned a two-count Indictment against the above-named defendant for alleged violations of federal law:

<u>COUNT</u>	<u>OFFENSE/DATE</u>	<u>TITLE/SECTION</u>
1	Illegal Possession of an Unregistered Destructive Device, on or about July 27, 2014	26 U.S.C. § 5861(d)
2	Illegal Manufacturing/Dealing of Explosives Without a License, on or about March 2, 2014, through on or about July 27, 2014	18 U.S.C. §§ 842(a)(1) and 844(a)(1)

II. ELEMENTS OF THE OFFENSES

A. As to Count 1: In order for the crime of Illegal Possession of an Unregistered Destructive Device, in violation

of 26 U.S.C. § 5861(d), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That the defendant knowingly possessed a firearm/destructive device;

2. That the defendant knew of the characteristics of the firearm/destructive device;

3. That this firearm/destructive device was in operating condition; and

4. That this firearm/destructive device were not registered to the defendant in the National Firearms Registration and Transfer Record. It does not matter whether the defendant knew that the firearms/destructive devices were not registered or had to be registered.

Third Circuit Model Criminal Jury Instruction 6.26.5861.

**B. As to Count 2:** In order for the crime of Illegal Manufacturing/Dealing of Explosives Without a License, in violation of 18 U.S.C. §§ 842(a)(1) and 844(a)(1), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. The defendant knowingly engaged in a business;

2. That business imported, manufactured, or dealt in explosive materials; and

3. The defendant did so without a license issued under Title 18 Chapter 40.

III. PENALTIES

A. As to Count 1: Illegal Possession of an Unregistered Destructive Device (26 U.S.C. § 5861(d)):

1. A term of imprisonment of not more than ten (10) years. (26 U.S.C. § 5861(d));

2. A fine not more than \$250,000 (18 U.S.C. § 3571(b)(3));

3. A term of supervised release of not more than three (3) years (18 U.S.C. § 3583);

4. Any or all of the above.

B. As to Count 2: Illegal Manufacturing/Dealing of Explosives Without a License (18 U.S.C. §§ 842(a)(1) and 844(a)(1)):

1. A term of imprisonment of not more than ten (10) years.

2. A fine of not more than \$250,000 (18 U.S.C. § 844(a)(1); 18 U.S.C. §§ 3559(a), 3571)

3. A term of supervised release of not more than three (3) years (18 U.S.C. § 3583);

4. Any or all of the above.

IV. MANDATORY SPECIAL ASSESSMENT

A mandatory special assessment of \$100.00 must be imposed at each count upon which the defendant is convicted, pursuant to 18 U.S.C. § 3013.

V. RESTITUTION

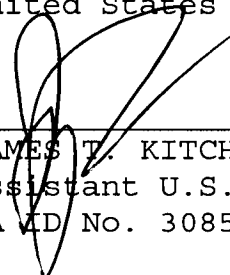
Not applicable in this case.

VI. FORFEITURE

Not applicable in this case.

Respectfully submitted,

DAVID J. HICKTON  
United States Attorney



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JAMES T. KITCHEN  
Assistant U.S. Attorney  
PA ID No. 308565